

Some Defects In The Colorado Tax System

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It is planned in this paper to point out some of the more important defects of the system of taxation now in force in Colorado. The chief of these are the failure to assess at full cash value, the omission of property by the assessing officers and the entire absence of equalization by the state board.

The Colorado Tax Commission was created with large powers of supervision and directed by law to see that all property is assessed at its full cash value. At the time the Commission was appointed the assessment for 1912 was practically completed and therefore the Commission was unable to get an assessment at full cash value for that year. It will be the policy of the Commission to do its utmost to bring about an assessment at the full cash value in all the assessments of property to be made hereafter. This will be hard to accomplish without a limitation of the levies. If property is now assessed at one third and the valuations are raised to cash, all fixed rates of taxation will yield three times the amount they now yield, and the limitations now imposed upon the amount to be levied by counties and school districts will be reduced three-fold. As there has always been great jealousy of the state by the local assessors and a desire on the part of the inhabitants of the counties to pay as little as possible for state taxes, it will at once appear that the county assessor will not be eager to raise his values to full cash when this act would mean that the state might raise three times the tax it is now able to raise owing to the four mill limit on the levy fixed by the Constitution.

There does not appear to be any valid reason why there should be in our constitution a limit of four mills on the dollar of assessed valuation for the state tax. This is not found in the majority of other state constitutions. Constitutional limits on state tax levies exist only in Alabama, Arkansas, Colorado, Idaho, Kentucky, California, Missouri, Montana, North Dakota, Texas, Utah and Wyoming. This limitation was enacted at a time when there was extreme distrust of the legislature and before anyone had given much thought to the initiative, referendum and recall. It has had the effect of weakening the responsibility of the members of the legislature, and has also prevented worthy measures from getting the consideration they deserve. It has placed on the Governor the duty of deciding which measures to veto in order to make the revenues sufficient for the proper maintenance of the state government and institutions. A five mill limit on the state tax levy in the constitution of Idaho was repealed by vote of the people in 1906. The limit in that state is now 10 mills.

COUNTY ASSESSOR.

The chief officer in making assessments is the county assessor—a constitutional officer elected every two years by popular vote. He is charged with the duty of determining the value of all property in his county except certain specified items which are assessed by the State Tax Commission. In the larger counties this officer must carry

on his work by the aid of deputies, these ranging in number from one to more than fifty. It is impossible therefore in these larger counties for the assessor to view personally the various properties to be assessed. The best he can do is to instruct his deputies and then depend upon the values returned by them.

The deputies are employed for a few weeks only. Their wages are comparatively low, averaging perhaps \$100.00 a month. It is therefore clear that the position of deputy assessor appeals only to a certain class of men. The man who has a good job will not abandon it for temporary employment and at moderate wages even though he becomes a part of the county government for a brief period. It is also charged that sometimes the assessor must consult the political boss in determining his choice of deputies. In this way the service is still further handicapped. It is therefore proper to conclude that the employment of deputy assessors is one of the weakest points in the entire system as the original values in many counties are made by these men. The important duty of determining the value of all kinds of local property is entrusted to men who will accept temporary employment and who are sometimes appointed to pay political debts. An improvement might result by having fewer deputies and having them devote all their time to making the assessment. In this way it would be possible for them to become experienced and bring to their work a more discriminative judgment. Continuous employment of the assessor and his deputies was recommended at the International Tax Conference at its meeting in 1910.

OMITTED PROPERTY IN COLORADO—1910.

Cattle—

| | |
|-----------------------------------|--------------|
| Number reported by census | 1,127,737 |
| Number assessed by assessor | 783,968 |
| Difference | 343,769 |
| Value reported by census | \$31,017,303 |
| Value assessed by assessor | \$7,811,406 |
| Percentage | 25.1 |

Horses—

| | |
|-----------------------------------|--------------|
| Number reported by census | 294,035 |
| Number assessed by assessor | 246,975 |
| Difference | 47,060 |
| Value reported by census | \$27,382,926 |
| Value assessed by assessor | \$7,506,210 |
| Percentage | 27.4 |

Mules—

| | |
|-----------------------------------|-------------|
| Number reported by census | 14,739 |
| Number assessed by assessor | 14,277 |
| Difference | 462 |
| Value reported by census | \$1,798,535 |
| Value assessed by assessor | \$524,559 |
| Percentage | 29.1 |

Asses—

| | |
|-----------------------------------|-------|
| Number reported by census | 3,233 |
| Number assessed by assessor | 520 |

| | |
|-----------------------------------|-------------|
| Difference | 2,713 |
| Value reported by census | \$136,732 |
| Value assessed by assessor | \$9,668 |
| Percentage | 7 |
| Swine— | |
| Number reported by census | 179,294 |
| Number assessed by assessor | 60,871 |
| Difference | 118,423 |
| Value reported by census | \$1,568,158 |
| Value assessed by assessor | \$253,678 |
| Percentage | 16.2 |
| Sheep— | |
| Number reported by census | 1,426,214 |
| Number assessed by assessor | 1,463,861 |
| Difference | None |
| Value reported by census | \$6,856,187 |
| Value assessed by assessor | \$2,165,838 |
| Percentage | 31.6 |
| Goats— | |
| Number reported by census | 31,611 |
| Number assessed by assessor | 23,709 |
| Difference | 7,902 |
| Value reported by census | \$80,644 |
| Value reported by assessor | \$37,207 |
| Percentage | 46.1 |
| Bees— | |
| Number reported by census | 71,434 |
| Number assessed by assessor | 14,620 |
| Difference | 56,814 |
| Value reported by census | \$308,608 |
| Value assessed by assessor | \$14,650 |
| Percentage | 4.7 |

The omissions in the above table show that the assessor is oftentimes forced to do perfunctory work. He is inadequately provided with help in his office and he frequently copies the values of real property from the roll of his predecessor. He has to hurry the work in the office to such an extent that it is impossible for him to devote as much care to the assessment as the nature of the service demands. It is also true that the assessors change frequently with the changes in political affairs so that about one half of those in the State do not remain in office for a longer period than two years. Twenty-nine new assessors were elected at the last election. An assessor who is obliged to make two political campaigns in a period of two years will not be expected to have learned thoroughly the business of the office. County assessors should be kept in office for long terms and should be as far removed as possible from the influence of local politics. The most efficient work in making the assessment would be done by assessors appointed by the State Tax Commission or other central body, but the time has probably not yet come for so great a change in our system of local government.

THE ASSESSMENT OF CORPORATIONS IN COLORADO.

The statute provides that the State Tax Commission shall assess the following corporations:

Railroads
Telegraph companies
Telephone companies
Express companies
Private car lines

The Commission assesses these corporations before June 15th of each year. The values are then distributed to the counties as follows: The total mileage as assessed in the State is apportioned according to the amount of main track mileage in each county. The mileage system is employed for all of these corporations. The result of this is to increase greatly the assessed values of the various counties. In several counties the values distributed thereto by the Colorado Tax Commission amount to from thirty to fifty per cent of the total assessed value. This value is thankfully received by the counties, as the addition of so much taxpaying value enables them to increase their local taxes.

PROPORTION OF TOTAL VALUATION BY ASSESSOR AND BY STATE TAX COMMISSION--1912.

| County | Assessor | Commission | Total | Per Cent assessed by Tax Commission |
|-----------|------------|------------|-------------|---|
| Archuleta | \$ 770,525 | \$ 645,410 | \$1,415,935 | 46.9 |
| Costilla | 1,728,207 | 752,730 | 2,480,937 | 30.3 |
| Douglas | 1,755,910 | 1,199,820 | 2,955,730 | 40.5 |
| Eagle | 1,252,779 | 940,700 | 2,193,479 | 42.8 |
| Grand | 864,595 | 504,465 | 1,369,060 | 36.9 |
| Gunnison | 2,822,035 | 1,683,699 | 4,505,734 | 37.3 |
| Kiowa | 791,650 | 1,117,835 | 1,909,485 | 58.5 |
| Park | 1,361,309 | 1,324,262 | 2,685,571 | 49. |
| Summit | 1,219,357 | 628,650 | 1,847,707 | 34.0 |

It therefore appears that the assessed value of a county is made up of two elements, namely: public utilities assessed by a state board, and all other property assessed by the local assessor. This dual assessment of property has led to serious consequences in Colorado. There is likely to be a feeling among the local assessors that the state board of equalization or the Tax Commission does not assess the public service corporations at as high a percentage of the true value as is done by the assessors in their assessments of the local property. The state board may feel that the assessors assess too low. There is accordingly a possibility that strife will develop, the aim of which is to reduce the assessments of both public utilities and local property to as low a point as possible. Thus the state board and local assessors might hope to get even with each other. It is said that in 1899 and 1900 this strife had reached such a pitch that the valuation of the state was greatly below what it ought to have been. The result was that the appropriations made by the legislature failed to pay out and

the state institutions had to beg and borrow from individuals to keep from closing their doors. The old jealousy existing between the State Board of Equalization and the county assessors was somewhat allayed by the special session of the legislature and the new revenue bill which it prepared.

The only probable way in which this difficulty resulting from dual assessments can be prevented is by centralization of the taxing power. The increasing cost of living may cause the public to investigate the weak points in the tax system and start movements for their elimination. Unbounded prosperity of all classes never reformed any tax system.

THE STATE BOARD OF EQUALIZATION.

The State Board of Equalization is an ex-officio constitutional body consisting of the following officers: Governor, Treasurer, Auditor, Secretary of State and Attorney General. This Board meets in October to equalize the values of counties. The statute says, however, it shall not increase the aggregate valuation more than ten per cent. For what reason this limitation is imposed is unknown. Any change of the aggregate valuation has been declared beyond the power of the board. In raising or lowering a county, the Board must determine the percentage of value to be added or subtracted and then must certify this value to the assessor concerned. The assessor shall then go through the assessment roll and add to or subtract this percentage from each valuation. This complicated method has thus far never been put into practice. No other method of equalization is possible in this State without an amendment to the Constitution because of the provision that the State Tax shall not exceed four mills. If it were not for this provision it would be possible to determine the value of each county by equalization and then distribute the state tax to the counties according to the equalized value. In case a county were materially raised, this method would give that county an amount of state tax which would cause the rate to be more than four mills on the dollar and hence a violation of the Constitution would result. Therefore, since the Constitution provides that the state tax shall not exceed four mills on the dollar there is no other method except by adding or deducting the per cent necessary to equalize the county from each item on the assessment roll.

LIMITATIONS ON THE STATE BOARD OF EQUALIZATION.

In 1877 the State Board of Equalization at its first meeting proceeded to change the values of the various counties of the state in accordance with the law and constitution. It added to the value of some of the counties and subtracted from that of the others. The county assessors refused to increase the valuations as directed by the state board and brought suit. The Supreme Court decided that the state board had no power to raise the aggregate value of the State, and that the only way in which it might equalize was to subtract from one or more counties when it added to others. *People ex rel Crawford vs. Lothrop*, 3 Colo. 428. Decided 1877.

In 1899 the State Board again attempted to equalize the coun-

ties. It directed that various classes of property in the different counties should be increased by certain specified percentages. For instance the assessor of Arapahoe county was instructed to increase the value of cattle 4 per cent, swine 54 per cent and so on for the other classes of property. He refused and in 1900 the Supreme Court decided that the State Board had no right to equalize other than by adding to or subtracting from a county in the aggregate; it could not change the assessment as made by the assessor within the county. The county must be treated as a unit by the State Board. *People vs. Ames* 27 Colo. 346 January 1900.

When this decision was announced the State Board concluded that all further attempts at equalization were futile and adopted the following resolutions:

WHEREAS, every effort of the said Board of Equalization since its establishment has been invalidated by adjudication of the Supreme Court,

THEREFORE, BE IT RESOLVED; That in the judgment of this Board the power of the said Board to equalize and adjust can only be made effective by Constitutional amendment or by legislative enactment specifically designating its powers and directing the method of the performance thereof.

Since that time no equalizing has been done by the State Board.

Even with no restrictions on the power of the Board, equalization is at best a difficult operation. The counties resist with the utmost vigor any attempt of the State Board to change their valuations. The following jocular account of the attitude of the county officials is taken from the report of the State Board of Equalization of Kentucky for the year 1911.

"From the testimony of the average witness who appears before this Board, there is very little good land in his section of the State, and what is there is mainly in adjoining counties; in his particular county there is a poor streak extending the length and width of the county from which all the timber has been cut and marketed; the process of erosion has carried all the fertile soil into the Gulf of Mexico; a peculiar and unprecedented condition exists in regard to the bottom lands in his county, unlike the conditions along most streams that enrich the land, for the current of the stream changes and washes it away, and if by accident there is a deposit, it is always of sand, that destroys its future productiveness; but there is here and there an occasional oasis of small area upon which the tireless farmer can eke out an existence. and, by the addition of a small mortgage, pay his taxes.

The cities do not labor under exactly the same difficulties, but their difficulties are just as difficult. It seems that in all the cities the railroads have secured quantities of land for terminal facilities that are withheld from assessment; in addition to which, the smoke, noise and dust have destroyed the value of property for blocks on either side. Schools and churches have also acquired valuable property which is exempt from taxation; this also lessens their total. The money in banks is owned by non-residents, country banks and

the federal government. The remaining few dollars left among their citizens is mainly for the purpose of street car fare. Business has been removed from the principal streets and is yet unlocated. In fact, the city would go into the hands of a receiver if there were anything to receive or anybody who would receive it."

PAYMENT OF TAXES BY CORPORATIONS AND INDIVIDUALS.

The fact that no equalizing has been done by the State Board of Equalization leaves the adjustment of taxes to be made by the County Commissioners. As will be understood from what has been said, there are two assessing bodies. The local assessor assesses all property except public service corporations. Until 1912 these were assessed by the State Board of Equalization. They are now assessed by the Tax Commission. The problem therefore is for these two assessing bodies to assess the property equitably and if the Tax Commission assesses the corporations at a higher percentage of true value than the assessor assesses the property under his jurisdiction there is cause for complaint on the part of the corporations. The equalization of these assessments is supposed to be brought about by the State Board of Equalization, but as this part of the law has thus far remained a dead letter, the corporations concerned bring their cases before the county commissioners at the time for payment of taxes. They are apt to appear there and claim that they are assessed on a higher percentage of cash value than is the case with other property in the county and there frequently results an abatement of their taxes by the County Commissioners. Such abatement is the confession of the county commissioners that they believe the local assessor has under assessed the property in his jurisdiction. Such abatements of taxes have been common in this state for many years. One great railroad system has just settled in fourteen of the counties through which it runs at rates of discount from nine to fifteen per cent. Another system is engaged in effecting compromises on the taxes for 1911 in twenty counties. Still other roads are engaged in the same business. One of the excuses frequently made by the Commissioners is that the county is hard up and needs the money and hence it is better to sacrifice than to issue emergency warrants. There have been times when the county attorney, who advises the county commissioners, has also been the attorney for the corporation which was refusing to pay its taxes. Which of his two masters he served at this critical time is unknown.

REMEDIES.

The remedies for the defects in the tax system pointed out in this paper are,

(1) Appointment of the county assessor by central authority, or if this is not possible, lengthen his term to four years. This requires an amendment to the Constitution.

(2) Separation of state and local sources of revenue to eliminate jealousies resulting from dual assessment. This requires an amendment to the Constitution.

(3) Give State Tax Commission power to equalize by raising

or lowering aggregate valuation. This requires amendment to the Constitution.

The question of taxation is hard to understand because of its inherently great difficulties. Government must be supported both in good and in bad times. Such support necessitates taking money from individuals and this is always a delicate matter and one attended with complaints. Few are satisfied with their contribution, most feel that they have been unjustly treated. It has been well said that there is more human nature than patriotism about the ordinary man. It is also well known that rights are obtained in proportion to the vigor with which they are demanded. The common people will therefore get an equitable tax system when they vigorously demand it.

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